

ADM-11.08, "Employee Leave,"

SCDC POLICY/PROCEDURE

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NUMBER: ADM-11.08

TITLE: EMPLOYEE LEAVE

ISSUE DATE: July 1, 2007

RESPONSIBLE AUTHORITY: DIVISION OF HUMAN RESOURCES

OPERATIONS MANUAL: ADMINISTRATION

SUPERSEDES: ADM-11.08 (January 1, 2004)

RELEVANT SCDC FORMS/SUPPLIES: 16-2, 16-5, 16-18, 16-39, 16-42, 16-48, 16-49 16-57, 16-102, 16-103, 16-117

ACA/CAC STANDARDS:4-ACRS-7E-07 , 4-ACRS-7E-09, 4-4048, 4-4065

STATE/FEDERAL STATUTES:State Human Resources Regulations; Family and Medical Leave Act

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PURPOSE: To provide guidelines for the provision of annual leave, sick leave, leave without pay, military leave with/without pay, funeral leave, court duty leave, election leave, leave for a disability resulting from a physical assault, hazardous weather/emergency leave, family medical and emergency leave, holiday observance, and holiday compensatory time. (4-ACRS-7E-07, 4-ACRS-7E-09, 4-4048, 4-4065)

POLICY STATEMENT: The South Carolina Department of Corrections will afford employees the opportunity to be granted leave consistent with applicable state and federal statutes and State Human Resources Regulations.

THIS POLICY/PROCEDURE HAS BEEN SUBSTANTIALLY REVISED. BECAUSE OF THIS, CHANGES ARE NOT SHOWN IN BOLD/ITALICS.

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SPECIFIC PROCEDURES:

1. HOLIDAYS:

1.1 STATE APPROVED HOLIDAYS: With the exception of hourly paid employees, SCDC employees will be allowed to observe with pay the following state approved holidays:

HOLIDAY	DATE
New Year's Day	January 1
Martin Luther King's Birthday	Third Monday in January
President's Day	Third Monday in February
Confederate Memorial Day	May 10
National Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Eve	December 24
Christmas Day	December 25
Day after Christmas	December 26

~~*The Governor is empowered to declare Christmas Eve as a state holiday. If Christmas Eve is declared, notice will be made to all employees by the Division of Human Resources.(Amended by Change Memo #2 dated June 12, 2009).~~

Permanent part-time employees will receive a pro-rated amount of holiday compensatory time commensurate with the hours actually worked, not to exceed their normal work day. Employees working a Monday through Friday schedule will observe holidays that fall on Saturday on the preceding Friday. Holidays that fall on Sunday will be observed on the following Monday. All other employees will observe the holiday on the day on which it falls.

1.2. HOLIDAY COMPENSATORY TIME:

1.2.1 In the event that an employee is required to work on a legal holiday, s/he will receive the total number of hours worked equal to his/her workday as holiday compensatory time not to exceed eight (8) hours. This compensatory time must be taken within 90 days from the date earned, and must be approved by the immediate supervisor. Any employee requesting holiday compensatory time must complete SCDC Form 16-42, "Leave of Absence/Overtime Request," in advance and provide this form to his/her immediate supervisor for approval.

1.2.2 Employees whose regular days off fall on a legal holiday will earn holiday compensatory time based on their scheduled work hours not to exceed eight (8) hours.

1.2.3 For the purpose of holiday compensatory time/compensation, SCDC employees are classified into two (2) categories:

- "Exempt" employees are those who occupy an executive, administrative, or professional position.

"Exempt" employees must take holiday compensatory time at the convenience of the Agency within 90 days from the date earned or forfeit such time. In no case will an "exempt" employee be paid for holiday compensatory time that is lost.

- "Non-exempt" employees must take holiday compensatory time at the convenience of the Agency within 90 days from the date earned, and if not taken, will be paid for those hours at their regular hourly rate of pay upon verification that the holiday time was not taken and subsequently lost.

1.3 The Division of Human Resources will provide a monthly Holiday Breakdown Report to each Warden, Division Director, and the Director's Staff advising them of accrued holiday compensatory time and his/her employees' 90 day status.

1.4 Upon termination from employment, a "non-exempt" employee will be paid for any unused holiday time. An "exempt" employee will be required to forfeit any unused holiday/compensatory balance.

1.5 All hours worked on a state approved holiday will be counted as hours worked in determining eligibility for overtime compensation. A holiday observed by an employee and other types of leave taken will not be counted as hours worked for the purpose of computing overtime at the premium rate, but will apply toward accountable hours required for the 7 or 28-day cycle.

1.6 When a legal holiday falls during a period of sick leave, annual leave, overtime credit taken, or holiday time taken, the employee will not be charged with leave unless s/he works a 12-hour per day schedule, in which case leave up to four (4) hours may be charged.

1.7 Employees on leave without pay status will not receive credit for holidays falling during the period of leave without pay, to include any period of suspension.

1.8 When a holiday falls on a day that an employee who is on paid military leave would have been scheduled to work, that day will be counted as a day of military leave. Compensatory leave will not be allowed. When a holiday falls on an employee's regular day off and s/he is not in leave without pay status, the employee will earn holiday compensatory time.

1.9 An employee who has been injured on the job and elects to use option #1, using sick or annual leave, will observe legal holidays that occur on scheduled workdays and will earn holiday compensatory time when holidays occur on scheduled days off. Employees who select option #2, workers' compensation benefits, will be in a leave without pay status with the agency and will not be eligible for holiday compensatory time. Employees who select option #3, to use a pro-rated amount of sick or annual leave, will observe a holiday in an amount equal to the pro-rated amount of leave when the holiday falls on a scheduled work day. When a holiday falls on the employee's regular day off, s/he will earn holiday compensatory time in an amount equal to the pro-rated amount of leave take on a scheduled work day.

2. ANNUAL LEAVE

2.1 Accrual:

- 2.1.1 Annual leave will be accrued and granted to all permanent and probationary full-time and part-time employees who are in pay status at least one-half of the work hours in the month on a 12 month basis. Temporary grant and time limited employees may be eligible for annual leave accrual only if specified in the grant. Part-time employees may earn annual leave on a pro-rata basis if in pay status at least one half of the work week of the agency on a twelve month basis.

2.1.2 No hourly paid (temporary, temporary grant, or time limited) employee will accrue annual leave.

2.1.3 If an employee's work hours change (as a result of a position change, etc.), his/her annual leave hours will be converted and adjusted to comply with his/her new work hour schedule.

2.1.4 Bonus leave earnings are awarded to employees based on verified state service and school district service and will be reflected in their annual leave accrual. Bonus leave earnings begin effective the month after gaining additional service credit.

2.1.5 Earnings for eligible employees are posted on the 17th of the month.

2.1.6 Employees must report all prior state or school district service on SCDC Form 16-14, "State Audit Questionnaire." Employees will be responsible for completing and forwarding an SCDC Form 16-47, "Certification of State Service/School District Claim for Annual Leave Accrual Purposes," to the former employer, to be mailed or faxed back to the Division of Human Resources. Upon receipt of the Form 16-

47, adjustments will be made to the employee's leave accrual date and state service date as appropriate. Qualified school district service does not affect an employee's state service date.

2.1.7 As indicated in Charts 1 and II below, the amount of annual leave earned per year is based on an employee's weekly scheduled work hours (e.g., 37.5 or 40 hour per week schedule) and leave accrual date, which reflects:

- verified service credit, including part-time service, adjusted to reflect periods of leave without pay over 30 consecutive workdays and periods where there was a break in service
- verified service as a certified employee in a permanent position of a school district of this state

CHART I

37.5 Hour per Week

Years of Service	Days Per Year	Hours Per Month
1 - 10	15.00	9.38
11	16.25	10.16
12	17.50	10.94
13	18.75	11.72
14	20.00	12.50
15	21.25	13.28
16	22.50	14.06
17	23.75	14.84
18	25.00	15.63
19	26.25	16.41
20	27.50	17.19
21	28.75	17.97
22 and over	30.00	18.75

CHART II

40 Hours per Week

Years of Service	Days Per Year	Hours Per Month
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1 - 10	15 .00	10.00
11	16.25	10.83
12	17.50	11.67
13	18.75	12.50
14	20.00	13.33
15	21.25	14.17
16	22.50	15.00
17	23.75	15.83
18	25.00	16.67
19	26.25	17.50
20	27.50	18.33
21	28.75	19.17
22 and over	30.00	20.00

2.2 Annual Leave Carry-Over: Full-time employees are permitted to carry over from one (1) calendar year to the next any unused annual leave up to a total accumulation of 45 days (360 hours for 40 hour per week employees or 337.5 hours for 37.5 hour per week employees). Part-time employees are permitted to carry over the pro rata portion of the 45 days maximum of full-time employees.

2.3 Taking Annual Leave:

2.3.1 Employees must request annual leave in advance by completing SCDC Form 16-42, "Leave of Absence/Overtime Request," and submitting this form to their supervisor for approval prior to taking annual leave. Hours taken must be reported on the SCDC Form 16-2, "Leave and Attendance Report." When an employee requests annual leave, supervisors should consider workloads, work distribution, and any other factors that may necessitate a change in a leave request.

2.3.2 An employee is charged annual leave for the actual time (in three [3] minute increments) that s/he is away from his/her job. (For example, if an employee working a 12-hour shift is away from his/her job on annual leave for the entire 12-hour shift, the employee will be charged with 12 hours of annual leave.)

2.3.3 Leave must be accrued before it can be taken. An employee will not be allowed to have a negative annual leave balance.

2.4 Maximum Usage of Annual Leave:

2.4.1 The maximum number of earned or accumulated working days of annual leave that may be taken in any one (1) calendar year will not exceed:

- For 37.5 hour per week employees (or 7.5 hour per day employees), 225 hours;

- For 40 hour per week employees (or 8 and 12-hour per day employees), 240 hours;

- For permanent part-time employees, the pro rata portion of the 30 day maximum is based on the 37.5 or 40 hour work schedule that is applicable to full-time employees on a five (5) days per work week schedule.

2.4.2 An exception to maximum usage requirements may be requested by an employee for one of the following reasons only:

2.4.2 (a) Family Medical Leave Act (FMLA) qualifying event:

- emergencies or serious health condition of the employee
- emergencies or serious health conditions of the employee's spouse, parents, or children

2.4.2 (b) Emergencies or serious health conditions of the following relatives of the employee or the spouse: parents, grandparents, brothers, sisters, children, grandchildren, and legal guardian. (Note: the serious health condition of the parents and/or legal guardian of the employee is an FMLA qualifying event.)

When possible, the employee should request and obtain approval in advance for such leave by completing SCDC Form 16-18, "Request to Exceed Maximum Annual Leave." An employee who has used all of his/her accumulated sick leave and his/her maximum number of annual leave hours may, with the prior approval of the Agency Director/designee, use annual leave credit s/he may have in excess of the maximum. Denial of the use of annual leave as provided in this paragraph will be grounds for review by the Director of the State Office of Human Resources upon request of the employee. Once an employee has reached, or exceeded the maximum amount of annual leave, the employee may not take additional annual leave for personal reasons (e.g., vacation) for the remainder of the calendar year. Any additional use of annual leave exceeding the 30 day limit must only be for the emergency or serious health condition listed above.

2.4.3 Any employee who fails to follow Section 2.4.2(b) of this policy will be in violation of State Human Resources Regulations and Agency policy/procedure, and will be required to reimburse the Agency in accordance with Agency Policy ADM-11.30, "Employee Payroll". Notification will be made to an employee exceeding 30 days of annual leave through the Human Resources Manager/Liaison in an effort to obtain proper documentation for examination of annual leave. Upon reimbursement, any hours taken in excess of 2.4.1, above, will be reinstated to the employee's leave balance as long as reinstated hours comply with Section 2.2, above.

2.4.4 On a monthly basis, the Division of Human Resources will provide a report to the appropriate Warden and/or appropriate Division Director of employees who have taken 160 hours or more (8 or 12 hour schedule) or 150 hours or more (7.5 hour schedule) of annual leave. Employees will also be notified on their semi-annual leave statement of their leave usage. Employees failing to make appropriate arrangements for payback of excessive used annual leave will be referred to the S.C. Department of Revenue Set Off Debt Collection Program or GEAR Program.

2.5 LEAVE WITHOUT PAY FOR EXTREME SERIOUS ILLNESS OF EMPLOYEE'S FAMILY OR OTHER HARDSHIP SITUATIONS:

2.5.1 An employee may request leave without pay using SCDC Form 16-57, "Leave of Absence Request Without Pay." Approvals will be granted for the extreme serious illness of the employee's or spouse's immediate family or for other employee hardship situations only. (For purposes of leave without pay, "immediate family member" is defined as the employee's spouse and children and the following relations to the employee or spouse: grandparents, parents, brothers, sisters, children, and grandchildren.)

2.5.2 Leave without pay will be considered only when an employee has exhausted all accrued holiday compensatory time and overtime. If requesting for an immediate family member, the employee must use the maximum of relative sick leave before going on leave without pay.

2.5.3 Requests for leave without pay may be approved for no more than 20 work days (160 hours for 8 or 12 hour per day employees and 150 hours for 7.5 hour per day employees) within a calendar year. This provision does not apply to an employee's extended illness covered under Agency sick leave procedures (see Section 3.4.2). However, a probationary employee will be limited to a maximum of 80 hours for 8 or 12 hour employees and 75 hours for 7.5 hour employees.

2.5.4 All requests for leave without pay must be submitted on SCDC Form 16-57, "Leave of Absence Request Without Pay." In addition, a memorandum from the requesting employee must include the following information:

- the reason for request;
- the specific dates of absence from work;
- signature of the requesting employee;
- signature of the employee's immediate supervisor and the appropriate approving authorities as described in Sections 2.5.5 below.

2.5.5 Approving Authorities for Leave Without Pay:

2.5.5 (a) Requests of up to five (5) work days (40 hours for 8 or 12 hour per day employees and 37.5 hours for 7.5 hour per day employees) require the signature and prior approval of the appropriate Warden or Division Director and of the Division Director of Human Resources.

2.5.5 (b) Requests for between six (6) to ten (10) work days of leave without pay (48 to 80 hours for 8 or 12 hour per day employees, and 45 to 75 hours for 7.5 hour per day employees) require the signature and prior approval of the appropriate Warden or Division Director, the Division Director of Human Resources, and of the appropriate member of the Director's Staff.

2.5.5 (c) Requests for more than ten (10) work days of leave without pay (more than 80 hours for 8 or 12 hour per day employees, and more than 75 hours for 7.5 hour per day employees) require the signature and prior approval of the appropriate Warden or Division Director, of the Division Director of Human Resources, and the appropriate member of the Director's Staff, and of the Agency Director. (NOTE: Under extreme emergency or hardship conditions, the Agency Director may approve further extensions upon request through the Division Director of Human Resources, the appropriate Warden or Division Director, and the appropriate member of the Director's Staff.)

2.5.5 (d) Once approved as stipulated in 2.5.5 (a - c), a copy of the SCDC Form 16-57 will be returned to the Leave and Attendance Section and Institution/Division Head by the Division of Human Resources. The supervisor will coordinate with the Human Resources Manager/Liaison to ensure that SCDC Form 16-5, "Personnel Advice Form," is properly completed and submitted to the Payroll Branch, Division of Human Resources, in order to place the employee on leave without pay status. A copy of the Personnel Advice Form should be attached to the employee's SCDC Form 16-2, "Leave and Attendance Form" for the week the leave without pay begins.

2.5.5 (e) Any leave without pay taken without the approvals noted in this section may be considered to be an unauthorized absence and appropriate corrective action may be taken against both the employee and the employee's supervisor.

2.5.5 (f) Employees should reference Section 5.10 (Family Medical Leave Act - FMLA), below for additional provisions for leave without pay.

2.6 Termination, Retirement, or Death:

2.6.1 Upon retirement or termination from state employment, or the death of an employee while in active service, a lump sum payment will be made for accrued unused annual leave hours not to exceed 360 hours for 40 hour per week employees (8 or 12 hour workday) and 337.5 for 37.5 hour per week employees (7.5 hour workday) regardless of hours used.

2.6.2 An employee who resigns from the Agency to accept employment with another state agency must notify the Division of Human Resources in writing in accordance with SCDC Policy/Procedure ADM-11.11, "Employee Clearance," so that any unused annual leave may be transferred to the gaining agency and his/her accrual rate and state service can be certified.

2.6.3 A retiree of the Police Officers Retirement System (PORS) or the South Carolina Retirement System (SCRS) who returns to work in any position in which s/he accrues annual leave will not be eligible for a

second annual leave payout.

2.7 Use of Annual Leave for Political Activity: See SCDC Policy/Procedure ADM-11.07, "Employee Political Activity," for additional information on the use of annual leave for candidacy for political office, participation in polls, other political activity, and lobbying.

3. SICK LEAVE:

3.1 Accrual:

3.1.1 Sick leave will be accrued and granted to all permanent and probationary full-time and part-time employees who are in pay status at least one-half of the work days of the month on a 12 month basis. Temporary grant and time limited employees may be eligible for sick leave accruals only if specified in the grant. Part time employees may earn sick leave on a pro-rated basis based on their weekly work hours if scheduled to work at least one half of the work week of the agency on a twelve (12) month basis.

3.1.2 No hourly paid (temporary, temporary grant, or time limited) employee will accrue sick leave.

3.1.3 Employees working a 37.5 hour work week (7.5 hour per day employees) will accrue 9.38 hours per month. Employees working a 40-hour work week (8 or 12 hour per day employees) will receive ten (10) hours per month.

3.1.4 If an employee's work hours change (as a result of a position change, etc.), his/her sick leave hours will be converted and adjusted to comply with his/her new work hour schedule.

3.1.5 Permanent, full-time employees are permitted to accrue a maximum of 195 days of sick leave (1,560 hours for 8 or 12 hour per day employees and 1,462.5 for 7.5 hour per day employees).

3.1.6 Earnings will be posted on the 17th of the month for eligible employees.

3.2 Sick Leave Carry-Over: No more than 180 days (1,440 hours for 8 or 12 hour per day employees and 1,350 hours for 7.5 hour per day employees) of sick leave may be carried over from one (1) calendar year to the next.

3.3 Taking Sick Leave: An employee will be granted sick leave if absent for any of the following reasons:

- personal illness or injury incapacitating the employee to perform his/her duties of the position;
- exposure to a contagious disease;
- appointment for medical or dental examination or treatment when such cannot be arranged during non-working hours;

- sickness during pregnancy or other temporary disabilities;

- treatment of alcoholism or other addiction;

- adoption of child; (An employee may use up to six [6] weeks of accrued sick leave to take time off for the purpose of caring for an adoptive child after placement. Authorized leave may only be requested by the employee who is primarily responsible for the care and nurture of the child. If both parents work for the state, only the employee who is primarily responsible for furnishing the care and nurture of the child may use six [6] weeks of sick leave. For additional leave, see "FMLA," Section 5.10, below);

- birth of child. (An employee giving birth may use up to six (6) weeks of accrued sick leave to take time off for childcare after the birth of a child. Additional sick leave may be requested and authorized with a physician's authorization/statement identifying the requirement for more than six (6) weeks. (For additional information see Section 5.10, "FMLA," below.)

- caring for ill members of immediate family (for additional information, see Sections 2.4.2, 2.5 and 3.4.1).

3.3.1 An employee is charged sick leave for the actual time (in three [3] minute increments) that s/he is away from the job. An employee cannot be charged sick leave on his/her regular day off. Sick leave may be charged on a state approved holiday only after observance of eight (8) hours of the state holiday if the base schedule is 40 hours per week or after 7.5 hours if the base schedule is 37.5 hours per week.

3.3.2 An employee should (when possible) request sick leave in advance by completing SCDC Form 16-42, "Leave of Absence/Overtime Request," and providing this form and a physician's statement (if the employee will be hospitalized or if the absence will exceed three working days) to his/her immediate supervisor for approval. Hours taken must be reported on SCDC Form 16-2, "Leave and Attendance Report." When not in advance, an employee should contact his/her immediate supervisor/designee as soon as possible to report being absent on sick leave.

3.3.3 An employee using sick leave in excess of three (3) consecutive work days, regardless of an employee's work schedule, must submit a return to work statement, from the attending medical provider, to the employee's supervisor. The statement must describe and establish the inclusive dates of such illness and be provided to the employee's supervisor before returning to work. This statement must be attached to the back of the SCDC Form 16-2, "Leave and Attendance Report."

3.3.4 A hospitalized employee must submit a return to work statement from his/her personal physician to his/her supervisor before returning to work. If the supervisor still has concerns about the employee being able to perform the duties of the position, s/he can request through the Division Director of Human Resources that the employee be approved by an Agency physician before returning to work.

3.3.5 ~~An employee who was injured outside of work can not return to work until he/she has been cleared by their doctor and must provide a written statement from their doctor stating that they have no work restrictions.~~ An employee with a personal injury requiring medical treatment and lost time from work must provide a statement from their doctor clearing them before they will be allowed to return to work. The

statement is to indicate there are no work restrictions/limitations that would prevent them from doing the essential functions of their job with or without reasonable accommodation. The employee must also be able to perform the essential functions of the job without exacerbating the personal injury or medical condition. Supervisors are to contact the Division of Human Resources for individual review of each case to ensure compliance with State and Federal Laws.(Amended by Change 3 to ADM-11.08, dated September 25, 2012.)

3.3.6 When there is reason to suspect that sick leave is being abused by an employee, the employee's supervisor must follow steps included in SCDC policies/procedures related to employee corrective action. In cases of suspected abuse of sick leave, the supervisor may require a certificate from a physician certifying the disability and providing a diagnosis and prognosis along with the inclusive dates of required sick leave before approving sick leave. Failure to provide the requested documentation may result in the employee being placed in leave without pay status for the period of absence.

3.4 Maximum Usage of Sick Leave:

3.4.1 Relative Sick Leave: Employees may use a maximum of 80 hours if working a 40 hour work week (8 or 12 hour per day employees) or 75 hours if working a 37.5 hour work week (7.5 hours per day employees) of sick leave each calendar year for relative sick leave to care for immediate family members. (For purposes of relative sick leave only, "immediate family" means the employee's spouse and children and the following relations to the employee or the spouse of the employee: mother, father, brother, sister, grandparent, legal guardian, and grandchildren. Relative sick leave is deducted from an employee's sick leave balance. A doctor's statement is required of any employee for hours taken in excess of three (3) consecutive working days. If possible, employees should request sick leave for the illness of an immediate family member the same as for an employee's personal illness. For purpose of common-law marriage, the employee must provide a statement confirming the common law marriage. The statement must be signed by both the employee and spouse and both signatures must be notarized.

3.4.2 Extended Disability: See Section 5.9, Extended Disability Leave and Section 5.10, Family and Medical Leave Act (FMLA) Leave.

3.5 Sick Leave Advances:

3.5.1 In extenuating circumstances, an employee (upon exhausting all annual and sick leave) may request and be advanced up to 120 hours or 112.50 hours of sick leave (dependent on the employee's work schedule). The employee must provide written verification from the health care provider that the employee is expected to return to work within that period of time. Should a medical diagnosis/prognosis or projected return to work date not be available, the employee must request and be approved for a leave of absence without pay.

3.5.2 Requests for sick leave advance must be in writing and approved by the appropriate Warden/Division Director and/or appropriate member of the Director's staff and the Division Director of Human Resources or designee. To be eligible, the employee must be on an extended absence and return to work immediately following the advanced hours. Upon return to work, the employee will have all earned sick leave applied to the leave deficit at the rate of 1 1/4 days per month (or, if part-time, the monthly earning rate) until the deficit has been eliminated. Should the employee terminate before the deficit is eliminated, any negative

balance will be treated as an overpayment.

3.5.3 Leave Transfer Program: Employees who exhaust all sick and annual leave who are on leave without pay due to an extended illness or disability may apply for sick leave under the Agency Leave Transfer Program. (See Section 4. below, for information.)

3.6 Termination, Resignation, and Retirement:

3.6.1 An employee who terminates/resigns from the Agency with a negative sick leave balance will have his/her annual leave balance adjusted based on the negative sick leave balance or have the dollar value deducted from his/her final paycheck.

3.6.2 An employee who resigns from the Agency to accept employment with another state agency or school district must notify the Division of Human Resources in writing so that unused sick leave may be transferred and his/her state service and accrual rate can be certified.

3.6.3 Upon retirement, an employee will receive service credits for not more than 90 days of unused sick leave at no cost to the employee.

3.6.4 An employee may donate excess sick leave to the Agency Pool. See Section 4., below, for additional information.

4. LEAVE TRANSFER PROGRAM:

4.1 Donations of leave to the Agency's annual and sick leave transfer pool:

4.1.1 Eligibility to Donate: Employees may donate accrued annual and sick leave to the Agency's Annual and Sick Leave Transfer Pools as provided below. Any employee desiring to donate to the Agency's sick and/or annual leave pool must do so prior to December 15th of each calendar year.

4.1.1.1 Annual Leave: An employee may voluntarily donate annual leave to the Agency's Annual Leave Pool not to exceed one-half of his/her calendar year accruals by completing SCDC Form 16-102, "Leave Transfer/Donation Request." The donation request may be submitted to the institutional Human Resources Manager/Liaison who must forward it to the Division of Human Resources for processing.

4.1.1.2 Sick Leave: An employee with more than a balance of 15 days accrued sick leave (120 hours for 8 or 12 hour per day employees, and 112.5 hours for 7.5 hour per day employees) may voluntarily donate sick leave to the Agency's Sick Leave Pool not to exceed one-half of the calendar year accruals by completing SCDC Form 16-102, "Leave Transfer/Donation Request Form." The donation request may be submitted to the institution/division Human Resources Manager/Liaison who must forward the request to the Division of Human Resources for processing. Employees donating sick leave must, however, retain a minimum balance of 15 sick leave days in their account (120 hours for 8 or 12 hour per day employees, and 112.5 hours for 7.5

hour per day employees) except when the employee is terminating employment, in which case s/he can donate the entire balance.

4.1.1.3 Donation of Leave to Another State Employee: Employees may donate accrued annual and sick leave to another employee within the same agency, not to exceed one-half of their annual accruals. Leave donated must be for an employee or family member with a medical condition that will require prolonged absence from work, or projected to be on leave without pay status for more than (30) days that will result in a substantial loss of income to the employee.

Any annual and/or sick leave that an employee donates will count towards the maximum amount of annual and/or sick leave that an employee can donate within a calendar year. In addition, any unused annual and/or sick leave that remains once the medical emergency ends will be donated to the respective agency leave pool account. (Section 4.1.1.3 added to ADM-11.08, by Change 5, dated August 25, 2016.)

4.2. REQUESTS FOR ANNUAL/SICK LEAVE FROM THE AGENCY LEAVE TRANSFER POOL:

4.2.1 Requests to be a Recipient of Sick Leave: To receive sick leave from the agency leave transfer pool, an employee must meet the following minimum criteria:

- Must have at least twelve months of continuous service in South Carolina government;
 - Must have exhausted all eligible sick and annual leave;
 - Must be projected to be on leave without pay a minimum of 240 consecutive work hours for employees assigned to an 8 or 12 hour day schedule or 225 consecutive work hours for employees assigned to a 7.5 hour day schedule;
 - Must provide a doctor's statement providing the diagnosis, prognosis, projected length of the disability/medical condition, if the medical condition is life threatening, catastrophic, and debilitating, and whether the employee is in a state of recovery (NOTE: An employee must not be in a state of recovery from illness, childbirth, complications of childbirth or surgery of any kind);
 - Must complete SCDC Form 16-103, "Recipient Leave Request Form," with approvals of the appropriate Warden, Division Director, or appropriate member of the Director's staff; and
 - Must not be eligible for other available benefits, i.e. Worker's Compensation, long term disability.
(NOTE: See Section 4.4 for additional approval criteria.)
- 4.2.2 Requests to be a Recipient of Annual Leave: To receive annual leave from the agency leave transfer pool, an employee must meet the following minimum criteria:
- Must provide evidence of a recent and specific severe family crisis and extreme hardship circumstances with dire financial consequences;
 - Must provide evidence that the employee is the primary care provider if the severe family crisis is for the employee to care for an immediate family member;

- Must provide detailed documentation of financial hardship, to include information on all income and debts, to include monthly payments, balances, status of payments to determine net cash flow after all expenses;
- Must have at least twelve months of continuous service in South Carolina state government;
- Must have exhausted all annual leave;
- Must have exhausted relative sick leave if requesting annual leave to care for an immediate family member;
- Must be projected to be on leave without pay a minimum of 240 consecutive work hours for employees assigned to an 8 or 12 hour day schedule or 225 consecutive work hours for employees assigned to a 7.5 hour day schedule;
- If requesting annual leave to care for an immediate family member, must provide a doctor's statement providing the diagnosis, prognosis, projected length of the disability/medical condition, if the medical condition is life threatening, catastrophic, and debilitating, and whether the family member is in a state of recovery; (Immediate family is defined as spouse, parents, grandparents, great grandparents, brothers, sisters, children, grandchildren, and great grandchildren of the employee or spouse);
- Must complete SCDC Form 16-103, "Recipient Leave Request Form," with approvals of the appropriate Warden, Division Director, or appropriate member of the Director's staff;
-
- Must not be eligible for other benefits, i.e., Worker's Compensation, long term disability (See Section 4.4 for additional approval criteria.);
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Note: An employee not meeting the criteria for sick leave will not be eligible to be a recipient for annual leave. Requests must be submitted to the Division of Human Resources who will review documentation provided and notify the employee and appropriate Warden, Division Director, or appropriate member of the Director's staff of approval/disapproval. Any medical documentation submitted will be maintained as confidential information pursuant to SCDC Policy/Procedure ADM-11.29, "Employee Record Maintenance and Confidentiality of Information."

4.3 There is no limit to the number of requests an employee may submit for sick or annual leave transfer. Each leave transfer request will be limited to a maximum of 240 hours for 8/12 hour employees and 225 for 7.5 hour employees. The Division Director of Human Resources or designee will ensure that sufficient agency leave balances exist.

4.4 In addition to the above requirements, the Division Director of Human Resources/designee will also review the employee's request for sick or annual leave transfer for the following:

- Previous leave usage to determine possible excessive use or abuse of leave benefits;
- Previous corrective action taken against the employee (previous employment history may be reviewed for indications that the employee has experienced attendance related problems); and

- Immediate supervisor's recommendation as to the impact on morale and efficiency of the work place if the request is approved.

4.5 Once the eligibility of a leave recipient has been approved, the Division of Human Resources will transfer the approved hours of annual and/or sick leave to the leave recipient. The Division Director of Human Resources or designee will notify the requesting employee and the appropriate Warden, or Division Director, or appropriate member of the Director's staff of the approval/disapproval.

4.6 Administrative or Judicial Appeal: The selection of leave transfer recipients for review and approval is not subject to administrative or judicial appeal.

4.7 Use of Leave Transferred from Pool: Upon approval of a request, an employee may use annual or sick leave from the appropriate pool account in the same manner as if the employee had accrued the leave. Leave approved and used under the Leave Transfer Program must be reported by the employee on SCDC Form 16-2, "Leave and Attendance Report." Annual or sick leave transferred under this program may be substituted retroactively for periods of leave without pay or used to liquidate an indebtedness for advanced sick leave. Annual or sick leave that accrues to the account of the leave recipient must be exhausted before using any leave from a leave transfer pool.

4.8 Termination of Emergency: The personal emergency affecting a leave recipient terminates when the Agency is notified in writing that the personal emergency no longer exists, the employee is approved for other benefits, or the leave recipient employee dies. The leave recipient will advise his/her immediate supervisor every 30 days of the status of the personal emergency and will be required to re-request and provide updated medical statements if s/he is out for an extended period. Should the emergency cease to exist, the leave recipient will be required to report the change immediately to his/her supervisor for instructions on returning to work. The Human Resources Manager or Record keeper must notify the Division of Human Resources in writing of the effective date the emergency terminated and when the employee should be returned to leave without pay status or will return to work. Upon termination of an emergency, no further requests for transfer of leave to the leave recipient's leave account may be made, and any transferred annual or sick leave remaining to the credit of the leave recipient will be restored to the appropriate pool account by the Division of Human Resources.

4.9 Termination of Employment: Any unused annual or sick leave that was transferred from a pool account to a leave recipient who is terminated from employment will be restored to the appropriate pool account by the Division of Human Resources. Transferred leave from a pool account will not be transferred to another employee, nor be included in a lump-sum payment for accrued leave, nor be included in the leave recipient's total service for retirement computation purposes

4.10 Employees should also refer to Section 2.5 above for requests that are personal in nature and less than 20 days in duration, or Section 5.10 below for additional information.

5. OTHER LEAVE TYPES: 5.1 Assault Leave (Administrative Leave):

5.1.1 Employees in full time equivalent (FTE) positions who are physically attacked while in the performance of official duties and suffer bodily harm as a result of an attack may be placed on Assault Leave, which is administrative leave with pay, formerly called Inmate Assault Leave, rather than sick leave. Administrative leave with pay may not exceed 180 calendar days. If the disability exceeds 180 days, the employee will be re-evaluated by a doctor at this time. If the evaluation shows that the employee's physical condition will improve, the employee's pay status will be determined by the election made at the time of the injury. (See Section 5.15 for additional information.)

5.1.2 Hourly paid employees will not be eligible for assault leave with pay but may have benefits available from the State Accident Fund, depending on the length of disability.

5.1.3 The Workers' Compensation Coordinator/designee of the Division of Safety, Fire Inspections, and Workers Compensation must approve the use of inmate assault leave with pay in advance before an employee may be placed on such leave.

5.1.4 Any employee physically attacked while in the performance of official duties, or directly attacked by an inmate should, if physically able, notify his/her supervisor immediately. (For clarification, an attack by an inmate, for the purpose of this policy/procedure, refers to the actual assault of an employee by an inmate as a result of direct physical contact or a traumatic event.) Notification of injury may be made by another employee or supervisor, should the employee not be physically able; however, such notification must be made before the employee leaves the job assignment whenever possible.

5.1.5 The immediate supervisor and the involved employee must immediately complete the appropriate SCDC injury reports, as required in SCDC Policy/Procedure ADM-16.15, "Workers' Compensation," and forward them directly to the institution/work site Workers' Compensation contact person. These forms will then be forwarded to the Workers' Compensation Section in the Division of Safety, Fire Inspections, and Workers Compensation within 24 hours of the injury.

5.1.6 The Division Director/Warden or designee will contact the Workers' Compensation Section giving the information necessary to authorize the use of assault leave. This initial authorization may be granted verbally, but in all cases, a Management Information Note (MIN) must be forwarded to the Workers Compensation Section to substantiate the use of assault leave.

5.1.7 An employee on assault leave must keep his/her supervisor informed of his/her medical condition, as required in ADM-16.15, "Workers' Compensation Policy". The employee must obtain a medical report from the authorized treating physician explaining the nature of the disability and a prognosis of when the employee should be able to return to work. These reports should be updated upon each visit to the physician and submitted to his/her supervisor. Supervisors will submit copies of all reports to the institution/worksites

Workers' Compensation contact person, who will forward them to the Workers' Compensation Section in the Division of Safety, Fire Inspections, and Workers Compensation.

5.1.8 All assault leave taken will be properly recorded on SCDC Form 16-2, "Leave and Attendance Report," in the categories of "Assault Leave Taken" and "Lost Time for On-The-Job Injury."

5.1.9 An employee who is on assault leave on a holiday which falls on a scheduled work day will observe the holiday. Employees who are scheduled to work more than 7.5 or 8 hours a day will be on assault leave for the remaining required hours.

5.1.10 Final approval of acceptance of the injury claim will be determined by the State Accident Fund.

5.2 Adoption Leave See Section 3.3 (Sick Leave and Section 5.10-FMLA)

5.3 American Red Cross Certified Disaster Service Leave: An employee who is certified as a disaster service volunteer for the American Red Cross may be entitled to receive paid leave each year of up to 80 hours for 8 or 12 hour employees and 75 hours for 7.5 hour employees when participating in specialized relief services. The employee must provide a verification of the disaster service volunteer service to his/her immediate supervisor. The verification must come from the American Red Cross and must include the dates of service.

5.4 Blood Drive and Donation Leave:

5.4.1 Volunteer blood drives may be held periodically at times and places as determined by the Agency Director/designee. Employees may participate in the blood drive during working hours without using sick or annual leave.

5.4.2 An employee who would like to donate blood at a time other than an agency arranged blood drive during working hours may do so without having to take leave or make up the time. The employee must notify his/her supervisor of the amount of time needed to make the donation as far as advance as possible. The supervisor may deny the employee's request if the employee's absence would create an extraordinary burden on the agency. In considering the employee's request the supervisor must consider the necessity and type of donation and any other factor the agency considers appropriate. As a condition of approving the request, the supervisor may require the employee to provide documentation of the donation.

5.5 Bone Marrow Donor Leave:

An employee who works an average of 20 hours or more per week and who seeks to undergo a medical procedure to donate bone marrow may be granted bone marrow donor leave with pay. The total amount of paid leave may not exceed 40 work hours unless a longer length of time is approved by the Agency Director. Such leave may require verification by a health care practitioner of the purpose and length of each request. If a medical determination finds that the employee does not qualify as a bone marrow donor, the paid leave of absence granted to the employee before that medical determination is not forfeited.

5.6 COURT LEAVE:

5.6.1 Any permanent or probationary employee who is summoned as a member of a jury panel will be granted time off with pay to serve as a member of a jury panel. Any jury fees and travel payment will be retained by the employee.

5.6.2 Employees summoned for jury duty will be expected to work on any given day only the number of hours that, when added to the hours required to be at court, equal the normal workday for the employee. Any day an employee is excused from service on a jury, the employee will be expected to return to the job if s/he is scheduled to work that day; otherwise, the time the employee is excused from court service will be charged as annual leave, holiday time, or compensatory time or, in the case of illness, as sick leave. (NOTE: Supervisors are cautioned to use common sense when requiring an employee to return to work for very short periods of time.) If an employee is not scheduled to work, jury duty leave cannot be used for that day.

5.6.3 Any permanent or probationary employee subpoenaed as a witness and who will not receive any personal gain from the outcome of the litigation will be granted court leave with pay for those hours required for the subpoena and may retain any witness fee and payment for travel expenses.

5.6.4 Any employee taking jury duty time or subpoenaed as a witness must complete SCDC Form 16-42, "Leave of Absence/Overtime Request," in advance and provide a copy of the subpoena or jury duty summons to his/her supervisor and report any time taken on SCDC Form 16-2, "Leave and Attendance Report." Afterward, the employee must provide documentation verifying the number of days served.

5.6.5 Any permanent or probationary employee subpoenaed in the line of duty to represent a state agency as a witness or defendant will be granted time off with pay. The employee's appearance in such cases will be considered a part of his/her job assignment. The employee will be reimbursed according to SCDC Policy/Procedure ADM-15.04, "Travel Regulations for SCDC Employees," for any meals, lodging, and travel expenses that may be incurred while serving in this capacity, if applicable.

5.6.6 An employee summoned for duty on a holiday will be on jury duty the number of hours s/he is in court. If the number of hours s/he is in court is less than their scheduled day of work, s/he should earn holiday compensatory time for hours worked or observe any remaining portion of the holiday not to exceed their scheduled day (7.5 or 8 hours).

5.6.7 In no case will time off with pay be granted for court attendance when an employee is engaged in personal litigation. An employee may, however, be granted annual leave with the approval of his/her supervisor, or leave without pay with the approval of the appropriate Warden/Division Director and the Division Director of Human Resources when annual leave is not available.

5.6.8 Attendance at State Employee Grievances, Appeals and Mediations - See Section 5.13.

5.7 FUNERAL LEAVE:

5.7.1 An employee, upon request, shall be granted up to 24 consecutive work hours (for 8 or 12 hour per day employees) or 22.5 consecutive work hours (for 7.5 hour per day employees) of leave with pay upon the

death of an employee's immediate family member. (For purpose of funeral leave only, "immediate family" is defined as the spouse, grandparents, great grandparents, parents, legal guardians, brothers, spouse of brothers, sisters, spouse of sister, children, spouse of children, grandchildren, and great grandchildren of either the employee or the spouse. For the purpose of common law marriage, the employee must provide a notarized statement confirming the common law marriage and spouse.

5.7.2 An employee requesting funeral leave must complete and submit SCDC Form 16-2, "Leave and Attendance Report" to his/her immediate supervisor upon his/her return to work.

5.7.3 A note (obituary or funeral program) stating the name of the deceased and the employee's relationship to the deceased should be attached to the Leave and Attendance form.

5.8 Educational Leave:

Employees are encouraged to schedule classes during off-duty hours whenever possible. When a desired class cannot be scheduled during off-duty hours, the Agency may elect to adjust the employee's work schedule if doing so will not interfere with the normal efficient operations of the Agency. When a desired class cannot be scheduled during off-duty hours and it is not feasible to adjust the work schedule, full time employees in permanent positions may be allowed to take annual leave or may be granted leave without pay in order to attend classes. (NOTE: See SCDC Policy/Procedure ADM-11.14, "Employee Participation in Academic Courses" for additional information.)

5.9 Extended Disability Leave:

5.9.1 For a certified disability, a permanent employee may request and be approved for the amount of requested leave not to exceed 180 working days of leave with pay or 180 calendar days of combined leave with pay and leave without pay. Otherwise, the employee will forfeit reinstatement privileges and be terminated.

5.9.2 In extenuating circumstances, the Agency Director, at his/her discretion, may approve extending the leave up to a total of 365 days if the health care practitioner certifies the employee's return to work within this time period. A permanent employee must submit a written request, along with a physician's certificate, describing the disability and establishing the inclusive dates of such disability. The dates may be subsequently amended by the physician. The Agency may require additional documentation from the physician or secure additional medical opinions from other physicians, including the SCDC's, if necessary. The Division Director of Human Resources or designee will coordinate the request with the affected Division Director or Warden before forwarding it to the Agency Director for his/her approval.

5.9.3 The request for such leave may not be denied for any bona fide illness or disability if the employee has satisfactorily completed his/her probationary period. A permanent employee must use all sick leave before going on leave without pay unless the Agency Director/Designee grants an exception for highly unusual circumstances at the employee's request. Upon exhausting all sick and annual leave, a probationary employee may request and be approved for a maximum of 75 or 80 hours leave without pay, based on the hours in the work week, during the probationary period as a result of disability due to illness or injury (including maternity). The written request for leave without pay along with a physician's certificate

describing the disability should be submitted to the appropriate Division Director/Warden. Employees in a probationary status who exceed the 75 or 80 hours of leave without pay must be notified and processed for termination of employment. A "Personnel Advice Form", SCDC Form 16-5, indicating when the leave without pay begins must be submitted to the Payroll Branch, Division of Human Resources, and a copy must be attached to SCDC Form 16-2, "Leave and Attendance Report" for the week the leave without pay begins.

5.10 FAMILY AND MEDICAL LEAVE ACT (FMLA):

5.10.1 Definitions: The definitions listed below are only applicable to the following Family and Medical Leave Act (FMLA) procedures:

Eligible Employees refer to employees who have been employed in continuous state service for at least 12 months and who have worked at least 1,250 hours during the previous 12 months. Such employees may request leave without pay under the Family and Medical Leave Act (FMLA) due to a serious health condition of an immediate family member or the birth, adoption, or care of a child. If both parents work for the state and leave is requested to care for a child, only one (1) employee may use the 12 weeks, or the weeks may be divided between the two (2) employees.

Immediate Family Member refers to biological parents; individuals who are legal guardians; biological, adopted, foster, and step children; children over whom the employee has legal guardianship; children less than 18 years of age, or more than 18 years of age and incapable of self-care because of a mental or physical disability; and spouse.

Spouse refers to a husband or wife as defined or recognized under state law for purpose of marriage, including common law marriages where such are recognized by state law.

Son or Daughter refers to a biological, adopted, or foster child; a step child; a legal ward; or a child of a person standing in loco parentis, who is:

- under the age of 18; or
- 18 years of age or older and incapable of self care because of a mental or physical disability.
- Parent refers to a biological mother or father or an individual who stands or stood in loco parentis to the employee when the employee was a son or daughter (does not include parents-in-law).
- Serious Health Condition refers to an illness, an injury, an impairment, or a physical or mental condition that involves:
 - any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility; or
 - any period of incapacity requiring absence from work, school, or other regular daily activities of more than three (3) calendar days that also involves continuing treatment by (or under the supervision of) a health care provider; or

- continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three (3) calendar days; or prenatal care.
- 5.10.2 Use of FMLA Leave: An eligible employee may request and be approved, for up to a total of 12 weeks of FMLA leave per calendar year, for any of the following reasons:

- For the birth of a son or daughter and to care for that child*;
- For placement of a son or daughter through adoption or foster care with the employee*;
- To care for the employee's spouse, son, daughter, or parent with a serious health condition; and
- For a serious health condition that makes the employee unable to perform the functions of the employee's job.

*NOTE: Eligibility for FLMA due to a birth or adoption expires 12 months after the date of the birth or placement with the employee.

- 5.10.3 Effective January 28, 2008, two additional reasons were added for an employee to be considered for family medical leave. They are:

- Qualifying exigency - an eligible employee may request family medical leave for a son, daughter, or parent on active duty who has been notified of an impending call or ordered to active duty for a qualifying exigency.
-

- Caregive Leave - for a serious illness or injury of a spouse, son, daughter, parent, or next of kin (nearest blood relative); an employee may request family medical leave to care for the service member who has a serious illness or has been injured while on active duty. An employee may request and be approved for a maximum of twenty six weeks in a single twelve (12) month period.
- An employee requesting FMLA under these two new categories should see their Human Resources Manager/Liaison or contact the Leave Section, Division of Human Resources, for the correct procedures on requesting leave under the two new categories. (Amended by Change Memo #1 dated May 2, 2008).

5.10.4Paid and/or Unpaid Leave: Family Medical Leave may be for periods of absence that are paid or unpaid. Generally, FMLA leave is unpaid; however,

- Eligible employees can use their accrued sick leave for FMLA leave when the FMLA leave request qualifies for sick leave usage. (NOTE: The necessity of a physician's excuse for more than six (6) weeks of such leave applies to sick leave requirements only and not to FMLA leave requirements.)

- An eligible employee may elect to substitute accrued annual leave for FMLA leave.

- The FMLA leave will run concurrently with any paid leave or unpaid leave and the leave should be charged against both leave category allowances.

5.10.5 Notification Procedures:

5.10.5.1 When an employee has knowledge of an illness or pregnancy, s/he should request FMLA through his/her immediate supervisor at least 30 days in advance. Should an emergency occur, an employee should request Family Medical Leave immediately. Supervisors do not have approval/disapproval authority for FMLA. Supervisors may not interfere with, restrain, or deny any rights provided by FMLA. The Division of Human Resources, Benefits and Leave Branch, will notify the responsible Warden or Division Director in writing immediately upon receipt of an FMLA request. If the employee is in the category of dual supervision, then both the Warden and the Division Director will be notified.

5.10.5.2 When a supervisor is notified of an employee illness, employee pregnancy, or eligible family member illness, s/he will notify the appropriate Human Resources Manager or the Division of Human Resources, Benefits Branch. The supervisor will ensure that the employee reports to the Human Resources Manager or to the Division of Human Resources, Benefits Branch, who will provide information to the employee that explains the FMLA benefit and application procedures. An employee who fails to apply for FMLA in a timely manner and who has been notified of the FMLA benefit may have their request delayed.

5.10.6. Application Procedures for FMLA: Employees should use the following procedures and forms when requesting Family Medical Leave:

5.10.6.1 Personal Illness: For the personal illness of an employee, completion of SCDC Form 16-48 (side II), "Employee Request," with a doctor's statement indicating diagnosis and prognosis and the dates the employee will be released from the physician and be able to return to work, is required. When employees utilize FMLA for personal illness, they must exhaust their accrued sick leave before going on leave without pay. Absences due to pregnancy or chronic serious health conditions (asthma, diabetes, epilepsy, etc.) may qualify even if the employee does not receive treatment from a health care provider and even if the absence does not last more than three (3) days. Routine physical, eye, or dental examinations do not qualify for FMLA.

5.10.6.2 Adoption of a Child: For the adoption of a child, completion of SCDC Form 16-49, "Notification - Child Birth/Adoption/Foster Care," is required. For adoption of a child (employee must be the primary care provider), the first six (6) weeks may be taken as sick leave if accrued. Once the six (6) weeks have expired, the employee has the option of requesting annual leave or going on leave without pay without additional physician authorization/statement. The six (6) weeks of sick leave will be concurrent with the 12 weeks of

FMLA. Paid leave taken will be counted toward the 12 week FMLA period.

5.10.6.3 Birth of a Child: For the birth of a child, completion of SCDC Form 16-49, "Notification - Child Birth/Adoption/Foster Care," must be completed. For giving birth, a maximum of six (6) weeks of sick leave may be taken by an employee, unless additional sick leave is authorized in writing by the employee's physician. In these cases, an employee will be authorized to use additional accrued sick leave over and above six (6) weeks. Once the employee's authorized sick leave has been exhausted, the employee has the option of taking accrued annual leave or leave without pay. The six (6) weeks of sick leave will be concurrent with the 12 weeks of FMLA. Paid leave taken will be counted toward the 12 week FMLA period. A doctor's statement is not required for the birth of a child except as follows:

- Upon the supervisor's request which must be within two work days of the employee giving notice of FMLA or, in the case of unforeseen leave, within two work days after the leave commences;
- When the concurrent use of sick leave during the FMLA absence exceeds six weeks;
- When the employee must begin FMLA leave well before the birth of the child because of complications.

5.10.6.4 Serious Illness of Family Members: For the serious illness of an immediate family member, completion of SCDC Form 16-48 (side I), "Family Member Request," with a doctor's statement indicating diagnosis, prognosis, and the period of time care is needed or the employee's presence would be beneficial is required from the attending physician. When employees request FMLA leave for an immediate family member, they should use the maximum of 80 hours of relative sick leave for 8 or 12 hour employees, and 75 hours of relative sick leave for 7.5 hour employees. Once they have used the maximum of relative sick leave, they may request annual leave for use under the FMLA, or go on leave without pay. An employee request for FMLA leave to care for the employee's seriously ill spouse, son, daughter, or parent, or due to the employee's own serious health condition, must be supported by certification issued by the health care provider.

5.10.7 Payment of State Group Insurance: When an employee exhausts all paid leave and has requested leave without pay, and is approved for family medical leave, the employee will not be responsible for the employer's portion of his/her state group insurance (health and dental) for any full calendar month of leave without pay while on FMLA.

5.10.8 Approval of FMLA: Once requested and the supervisor and Warden/Division Director are notified, the appropriate FMLA form should be forwarded to the Benefits Branch, Division of Human Resources. Once the Division of Human Resources has determined that the leave being taken qualifies as FMLA, the request will be approved and declared as FMLA Leave. The Division of Human Resources will then notify the employee in writing, his/her supervisor, and the appropriate Warden or Division Director of the approval within five (5) working days.

5.10.9 Reporting FMLA: All leave taken due to FMLA (annual leave, sick leave, or leave without pay) must be reported on SCDC Form 16-2, "Leave and Attendance Report," for the actual time away from the job.

5.10.10 Delay of Approval for FMLA: The Agency, at its discretion, may delay FMLA if the employee fails to request FMLA within a reasonable time frame and there is no satisfactory excuse for not requesting FMLA within a reasonable period. The use of FMLA will be subject to verification.

5.11 HAZARDOUS WEATHER AND EMERGENCY LEAVE:

5.11.1 Declaration of Emergency: The Governor has the sole authority to excuse employees of state government from reporting to work during extreme weather or other emergency conditions. The Governor will issue a Declaration of Emergency stating that, because of extreme weather or other specified emergency conditions, employees should not report to work or should report at a specified time. (NOTE: Section 19-712.01 of the State Office of Human Resources Manual does not preclude the necessary, immediate evacuation of a facility by an individual in a supervisory capacity in the interest of personal safety.) A Declaration of Emergency may be applicable to employees in the entire state, or only to those employees in specific geographical region(s) of the state. All state government employees are expected to report to work unless the Governor has issued a Declaration of Emergency. (See also Section 5.11.2, below, for information concerning the applicability of the Declaration of Emergency to all employees.)

5.11.2. Non-Essential and Essential Employees: Due to the fact that the SCDC is a 24-hour, seven (7) day per week operation, all Wardens, Division Directors, and other appropriate managers must identify employees in essential positions by classification or internal title and post a list of names or positions and titles in a conspicuous place on a permanent basis. This list must be reviewed and updated at least annually. During a declared emergency, all essential employees will be required to report to work. Any employee classified in a non-essential position who lives or works within the specified region(s) to which the declared emergency applies will not be expected to report to work.

5.11.3 Time of Declaration:

5.11.3.1 During Normal Working Hours: A designee of the State Office of Human Resources will notify Agency representatives of any Declaration of Emergency. These representatives consist of the following positions:

- Agency Director (Primary)

- Chief of Staff (Alternate)

- Director, Office of Budget and Resource Management (Alternate)

- Division Director of Human Resources.

The Primary or Alternate representatives will ensure the expeditious dissemination of such a message to all Agency offices located in the affected areas. The Governor's Office will be responsible for issuing statements to the news media concerning the release of state employees due to the emergency. When conflicts exist regarding news media information and SCDC directives, employees should contact their immediate supervisor, their Warden/Division Director, or other appropriate manager, to resolve the conflict. The Office of the Governor will advise the State Office of Human Resources when the Primary or Alternate representatives are changed, using a form provided by the Office of Human Resources.

5.11.3.2Declarations During Off Duty Hours: Between the hours of 5:00 p.m. and 8:00 a.m., the news media will be the source of all Declarations of Emergency as announced by the Governor's Office. The news media sources will be the method by which employees are alerted to the existence of an emergency. Employees will assume an individual responsibility to respond in an appropriate manner to closings as they are announced. Should an employee need additional information or clarification regarding a declared emergency, s/he should contact the designated essential employee(s) at his/her work location.

5.11.4Leave and Attendance During Declaration of Emergency:

- 5.11.4.1 Notwithstanding any other provisions of law, when the Governor declares a state of emergency for the State or any portion of the State, s/he can provide State employees with leave with pay for absences from work due to the state of emergency for hazardous weather of up to five days for each declaration of a state emergency.

5.11.4.2 In the event the Governor does not provide State employees with leave with pay, employees in non-essential positions ("exempt" and "non-exempt") who do not report to work or who report late to work will make-up the time lost as follows:

- Use accrued annual, overtime, or holiday compensatory leave;

- Take leave without pay; or

- Make-up time lost from work within 90 days from the date absent from work due to the declared emergency.

- 5.11.4.3 Employees holding an essential position (as designated on posted lists) may be subject to corrective action should they not report to work at the appropriate time.

5.11.4.4 All employees ("exempt" and "non-exempt") must report time missed and the method of make-up

on SCDC Form 16-2, "Leave and Attendance Report."

5.11.4.5 Should an employee, "exempt" or "non-exempt," elect to make-up time missed, it must be reported on SCDC Form 16-2, "Leave and Attendance Report." It must be reported as "state declared emergency make-up." All make-up time must be coordinated in advance with the approval of the employee's immediate supervisor.

5.11.4.6 The Division of Human Resources will provide reports to Wardens, Division Directors, and the Director's Staff on hours missed by employees under their respective supervision.

5.11.4.7 Any questions regarding time and attendance for a declared emergency should be directed to or cleared through the Leave Section of the Division of Human Resources. Questions or extenuating circumstances regarding a specific employee's attendance during periods of declared emergencies should be directed to the Division Director of Human Resources.

5.12 MILITARY LEAVE :

5.12.1 Every employee of the SCDC who is a member of the United States Armed Forces Reserve, including the National Guard, will, upon presentation of a copy of his/her official military orders or appropriate military certification, be entitled to leave without loss of pay, time, or efficiency rating for a period not to exceed 120 work hours if on an 8 or 12 hour per day schedule or 112.5 work hours if on a 7.5 hour per day schedule based on the federal fiscal year beginning October 1 and ending September 30. Military leave with pay is for periods where the employee is engaged in annual field training or other active duty for training exercises ordered by the Governor or a Department of the Armed Forces.

5.12.2 Saturday, Sundays, and state holidays will not be included under the provisions of military leave with pay unless the particular Saturday, Sunday, or holiday is a regular work day for the employee.

5.12.3 In the event the employee is called upon to serve during an emergency, s/he will be entitled to a leave of absence with pay (call-up military leave) for a period not to exceed 240 additional hours for 8 or 12 hour per day employees, or not to exceed 225 additional hours for 7.5 hour per day employees. An employee must provide orders or official documentation in advance of this period of absence. In the event an employee is called to active duty as a result of "Operation Enduring Freedom," "Operation Noble Eagle," or in conjunction with hostilities in Iraq and has used 240 work hours (for 8 or 12 hour per day employees) or 225 work hours (for 7.5 hours per day employees) of call-up military leave as described above, s/he may receive call-up military leave each subsequent federal fiscal year upon presentation of military orders while the emergency continues.

5.12.4 Employees requesting military leave with pay must complete SCDC Form 16-42, "Leave of Absence/Overtime Request," in advance and submit this form and a copy of his/her ordersto their supervisor

for approval.

5.12.5 Military leave taken must be reported on SCDC Form 16-2, "Leave and Attendance Report." A copy of the employee's military orders must be stapled to the back of this form and submitted to the designated record keeper at the end of the appropriate leave period.

5.12.6 An employee requesting military leave without pay must complete SCDC Form 16-57, "Leave of Absence Request Without Pay," in advance and submit this form to his/her immediate supervisor for approval. The employee must staple a copy of his/her military orders to this form.

5.12.7 Upon approval by his/her supervisor, the request will be forwarded to the appropriate Warden/Division Director for final approval. The completed form will then be filed and maintained in the employee's leave file.

5.12.8 All military leave without pay taken must be reported on SCDC Form 16-2, "Leave and Attendance Report." In addition, the supervisor must complete SCDC Form 16-5, "Personnel Advice Form," and submit this to the Payroll Branch, Division of Human Resources, for removal from the payroll.

5.13 State Employee Grievances and Appeals Attendance:

5.13.1 When an employee attends a mediation or mediation-arbitration conference in an official capacity his/her attendance is considered a part of his/her job assignment.

5.13.2 When an employee appears as a witness or in any other official capacity in a hearing before the State Employee Grievance Committee, his/her appearance is considered a part of the employee's job assignment.

5.14 Voting Leave (Election Leave)

5.14.1 An employee who lives at such a distance from his/her assigned work location as to preclude voting outside of working hours may be authorized a maximum of two (2) hours of leave with pay for this purpose. An employee may not be granted election leave to work at the polls during an election. However, an employee may be granted annual leave or leave without pay to work at the polls.

5.14.2 An employee should request election leave by completing SCDC Form 16-42, "Leave of Absence/Overtime Request" in advance and submitting this form to his/her supervisor for approval. Hours taken must be reported on SCDC Form 16-2, "Leave and Attendance Report".

5.15 Workers' Compensation Leave:

If there is an accidental injury arising out of the course of employment with the State, which is covered under Workers' Compensation, an employee who is not eligible for or who has exhausted his paid administrative leave, shall make an election to use either earned leave time or Workers' Compensation benefits.

5.15.1 The employee shall make an election under one of the following options:

- To use sick leave, annual leave, or both. When earned leave is exhausted before the employee can return to work, the employee shall be entitled to Workers' Compensation benefits at the time leave is exhausted.

- To use Workers' Compensation benefits in accordance with Title 42 of the South Carolina Code of Laws.
- To use sick leave, annual leave, or both on prorated basis in conjunction with Workers' Compensation benefits according to the formula approved by the Budget and Control Board.
- 5.15.2 Before the election is made, the effect of each available option on the employee's future leave earnings must be explained to the employee. The injured worker and the employee explaining the effect of each option must complete and sign SCDC Form 16-39, "Election Statement." The election of the employee is irrevocable as to each individual incident.

5.15.3 Regardless of which option an employee elects, s/he would continue to be eligible for payment of medical costs provided by the State Accident Fund.

5.15.4 Holidays - See Section 1.9 for the impact of each option as it relates to holiday time.

5.16 Nursing Mother Requiring Break To Express Milk:

An employee who has given birth to a child may request through their supervisor and the Human Resource Manager/Liaison or Divisional Liaison an accommodation to express milk for their nursing child for up to one (1) year from the date of birth of the child. The employee must notify their supervisor and the Human Resource Manager/Liaison or Divisional Liaison in writing, and in advance of the following: Child's name, date of birth, date accommodation is requested, duration of the request and the number of breaks needed to during the course of the work day to express milk. Upon receipt of the request by the Human Resource Manager/Liaison or Divisional Liaison, the employee will be notified of a location (other than a bathroom) that is a clean environment, private, shielded from view and free from intrusion from co-workers and the public, which may be used to express breast milk.

An employee requesting breaks to express milk should use annual, holiday comp or comp time for breaks to express milk or if the work schedule permits, the employee may be allowed to flex their hours for the time away from the job.

(Section 5.16 added by Change 4, dated May 22, 2014.) 6. DISCREPANCIES IN LEAVE REPORT:

Any discrepancies/errors detected by an employee in his/her annual leave must be directed (via memorandum, telephone, or corrected copy of the SCDC Form 16-2) to his/her designated Human Resources Manager/liaison or to the Division of Human Resources. Upon confirmation, the error will be documented by the responsible Human Resources Manager on SCDC Form 16-117, "Request for Leave Adjustment," and corrected in the leave system.

7. DEFINITIONS: The following definitions are applicable throughout this policy/procedure. Please note, however, that other definitions pertinent only to specific sections of this policy/procedure are included throughout the text of the same.

Annual Leave refers to time accrued and granted to full-time and part-time employees for personal use. (Refer to Section 19-709 of the State Human Resources Regulations for additional information.)

Election Leave refers to a maximum of two (2) hours leave with pay provided for employees occupying permanent positions within the SCDC living at such distance from their work location that it would preclude

voting outside of working hours.

Family and Medical Leave Act (FMLA) refers to a federally mandated regulation which allows eligible state employees who are experiencing a serious health condition or the birth or adoption of a child, or who must care for a spouse or immediate family member with a serious health condition, 12 weeks of leave with or without pay every calendar year under certain qualifying conditions without loss of their employment. The 12 weeks may be taken in intervals, which means in blocks of time, or by reducing an employees weekly or daily work schedule.

Full Time refers to a position appropriated by the General Assembly with work hours of 37.5 or more per week.

Funeral Leave refers to leave with pay provided to employees who have a death in their immediate family as defined in this policy/procedure. (See Section 19-712.01, State Human Resources Regulations, for additional information.)

Hazardous Weather and Emergency Leave refers to time allowed SCDC employees occupying non-essential positions to be absent or report to work late in the event of hazardous weather or emergency conditions that would expose state employees to harmful or unsafe conditions. Hazardous weather and emergency leave must be declared by the Governor.

Holiday Time refers to those occasions when all SCDC employees are (with the exception of temporary hourly employees) allowed to observe with pay state-approved holidays.

Hours of Work refers to hours actually on the job in which the employee is performing some aspect of his/her duties or responsibilities and, in general, includes all time an employee is required to be on duty to include overtime hours for which an employee must be compensated. (4-ACRS-7E-07, 4-ACRS-7E-09, 4-4048, 4-4065)

Jury Duty Leave refers to leave with pay provided to SCDC employees who are called upon to serve as jurors or witnesses in court cases. (See Section 19-712.01 of the State Human Resources Regulations for additional information.)

Leave for Disability Resulting from Physical Assault refers to administrative leave with pay, commonly referred to as Assault Leave, provided to any probationary or permanent full-time employee who is temporarily disabled as a result of an actual physical assault by an inmate in the line of duty.

Leave Transfer Program refers to a program in which employees of the SCDC may donate accrued annual and/or sick leave to the Annual or Sick Leave Transfer Pool or may request to be a recipient of such leave in accordance with Agency and State Human Resources guidelines.

Military Leave With Pay refers to paid leave for the purpose of short-term military training for those employees who are members of the United States Armed Forces Reserves, including the National Guard.

Military Leave Without Pay refers to leave without pay granted to every employee who has enlisted in, been selected for, or been commissioned for service in the Armed Forces of the United States beginning with the date of induction and ending 90 calendar days after date of separation (but for a period of no greater than five [5] years) from military service while being entitled to retain all seniority and efficiency and register rating.

Part Time refers to a position appropriated by the General Assembly with work hours of less than 37.5 hours per week.

Sick Leave refers to time accrued and granted to full-time and part-time employees (who are in permanent pay status and are scheduled to work at least one-half of the work days of the month on a 12 month basis) for personal or relative illness. (See Section 19-710 of the State Human Resources Regulations for additional information.)

Temporary Employee refers to a full-time or part-time employee who does not occupy a full-time equivalent (FTE) position, or whose employment is not to exceed one (1) year and who is not a permanent employee.

Temporary Grant Employee refers to a full-time or part-time employee who does not occupy a full-time equivalent (FTE) position and whose employment and benefits are contingent upon the stipulations specified in the grant.

SIGNATURE ON FILE

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s/Jon E. Ozmint, Director

ORIGINAL SIGNED COPY MAINTAINED IN THE DIVISION OF POLICY DEVELOPMENT.